PATENT
Customer No. 22,852
Attorney Docket No. 07643.0042-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
	)
Russell T. DAVIS et al.	) Group Art Unit: 2176
	)
Application No.: 10/052,250	)
	) Examiner: C. Nguyen
Filed: January 23, 2002	)
	)
For: RDX ENHANCEMENT OF	)
SYSTEM AND METHOD FOR	) Confirmation No.: 1920
IMPLEMENTING REUSABLE	)
DATA MARKUP LANGUAGE	)
(RDL)	)

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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed November 1, 2007. This Request is being filed concurrently with a Notice of Appeal.

I.   Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of the rejections set forth in an Office Action. The application has been at least twice rejected. Applicants have filed a Notice of Appeal with this Request, and have not yet filed an Appeal Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. *See* Official Gazette Notice, July 12, 2005. Therefore, Applicants request review of the Examiner's rejections in the Final Office Action for the following reasons.

II. **Status of the Claims**

In the Final Office Action, the Examiner rejected claims 62-64 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,721,736 to Krug et al. (*Krug*) in view of the "XBRL Specification" by Hamscher et al. ("*Hamscher*"); rejected claims 1-6, 11-21, 24-34, 37-46, 49-57, and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,370,549 to Saxton ("*Saxton*"), in view of U.S. Patent Application Publication No. 2002/0052954 to Polizzi et al. ("*Polizzi*"), and further in view of *Hamscher*, and rejected claims 8-10, 23, 36, 47, 48, and 58 under 35 U.S.C. § 103(a) as being unpatentable over *Saxton*, *Polizzi*, *Hamscher*, and further in view of U.S. Patent No. 6,134,563 to Clancey et al. ("*Clancey*").

III. **The rejection of claims 62-64 U.S.C. § 103(a) as being unpatentable over *Krug* in view of the *Hamscher* is improper**

Applicants respectfully request that the Board of Examiners reconsider and withdraw the rejection of claims 62-64. Applicants submit that a *prima facie* case of obviousness has not been established with respect to these claims.

Claim 62 recites a data processing system, comprising:

> a parser that:
>
> . . .
>
> determines the hierarchy of the software elements within a structure representative of the one or more text documents; and
> a manager that:
> provides for the creation of a second hierarchy of the software elements, and
> provides for the restructuring of the first hierarchy and the second hierarchy into software structures corresponding to a new text document.

(emphasis added). *Krug* discloses "constructing a hierarchical HTML syntax tree that represents the hierarchical structure of the syntax elements (tags)" (col. 8, lines 25-27). Even assuming that the "hierarchical structure" of *Krug* could correspond to the claimed "hierarchy of the software elements," which Applicants do not concede, the Examiner correctly states that *Krug* "does not explicitly disclose a manager that provides for the creation of a second hierarchy . . ." (Final Office Action at page 3). The Examiner relies on *Hamscher* to allegedly disclose these elements. However, this is not correct.

Hamscher is directed to a XBRL specification for defining XBRL elements and attributes that can be used in the creation, exchange, and comparison tasks of financial reporting (Abstract). The first paragraph on page 17 of *Hamscher* discloses "[o]rder independence also simplifies the combination of financial information from different periods or entities, or even for the same entity under different reporting regimes, since in most cases an XBRL instance document can be created by concatenating other XBRL instance documents."

According to this passage, an XBRL instance document can be created by concatenating other XBRL instance documents. The Examiner appears to assert that creating an XBRL document by concatenating other XBRL instance documents teaches the claimed "second hierarchy of software elements." Even assuming that this newly created document could correspond to a "hierarchy of software elements," which Applicants do not concede, only <u>one</u> "hierarchy of software elements" would be created (i.e. the created XBRL document).

Both *Krug* and *Hamscher* disclose, at most, information in a <u>single</u> hierarchy (arguably the hierarchical relationship in *Krug* and the created XBRL document in *Hamscher*). In contrast, claim 62 requires <u>both</u> the determination of a "hierarchy of <u>the software elements</u>" created by interpreting tags included in the one or more text documents" <u>and</u> "the creation of a second hierarchy of <u>the software elements</u>" (emphasis added). The references do not provide for <u>both</u> the determination of a "hierarchy of the software elements" <u>and</u> the creation of a "second hierarchy" of the <u>same</u> "software elements," as required by claim 62.

Therefore, *Hamscher* does not teach the claimed "creation of a second hierarchy of the software elements." Accordingly, *Hamscher* does not teach or suggest a manager that "provides for the creation of a second hierarchy between the software elements, and provides for the restructuring of the first hierarchy and the second hierarchy into software structures corresponding to a new text document," as recited in claim 62.

As set forth above, and contrary to the assertions of the Examiner, the combination of *Krug* and *Hamscher* does not teach or suggest all elements of claim 62. In view of this mischaracterization of the references, the Office Action has neither

properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Therefore, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of the prior art and a *prima facie* case of obviousness has not been established with respect to claim 62.

Claim 62 is allowable for at least these reasons, and claims 63 and 64 are also allowable at least due to their depending from claim 62.

IV. The rejection of claims 1-6, 11-21, 24-34, 37-46, 49-57, and 59-61 under 35 U.S.C. § 103(a) as being unpatentable over *Saxton, Polizzi,* and *Hamscher* is improper

Applicants respectfully request that the Board of Examiners reconsider and withdraw the rejection of claims 1-6, 11-21, 24-34, 37-46, 49-57, and 59-61. Applicants submit that a *prima facie* case of obviousness has not been established with respect to these claims.

Regarding independent claim 1, the Examiner correctly states that *Saxton* and *Polizzi* "do not explicitly disclose a manager that provides for the creation of a second hierarchy . . ." (Final Office Action at page 6). The Examiner again relies on *Hamscher* to allegedly disclose these elements. This is not correct.

As established above, *Hamscher* does not teach the claimed "creation of a second hierarchy of the software elements." Thus, *Hamscher* does not teach or suggest a "manager that provides for the creation of a second hierarchy between the software elements and the restructuring of the first hierarchy and the second hierarchy into software structures corresponding to a new text document," as recited in claim 1.

Accordingly, the combination of *Saxton, Polizzi,* and *Hamscher* does not teach or suggest all elements of claim 1. In view of this mischaracterization of the references, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Therefore, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of the prior art and a *prima facie* case of obviousness has not been established with respect to claim 1.

Claim 1 is allowable for at least these reasons, and claims 2-6, and 11-16 are also allowable for at least the same reasons as claim 1. Independent claims 17, 29, 30,

42, and 54, though of different scope from claim 1, recite limitations similar to those set forth above with respect to claim 1. Claims 17, 29, 30, 42, and 54 are therefore allowable for at least the reasons presented above. Claims 18-21, 24-29, 31-34, 37-41, 43-46, 49-53, 55-57, and 59-61 are also allowable at least due to their dependence from claims 17, 29, 30, 42, and 54 respectively.

V. The rejections of claims 8-10, 23, 36, 47, 48, and 58 under 35 U.S.C. § 103(a) are improper

Although the Examiner cites *Clancey* in the rejection of dependent claims 8-10, 23, 36, 47, 48, and 58, *Clancey* does not teach the required claim elements missing from *Krug, Hamscher, Saxton*, and *Polizzi*, nor does the Examiner contend otherwise. Applicants request that the Board of Examiners withdraw these rejections.
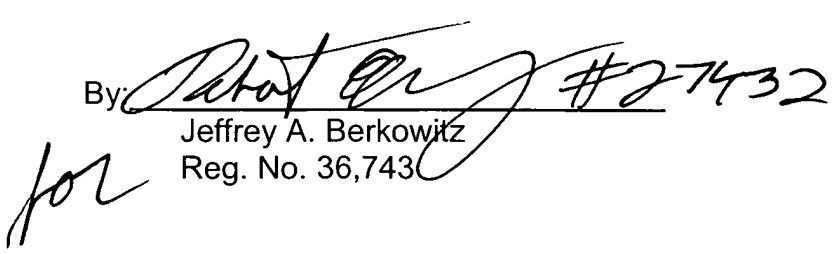
VI. Conclusion

Because the Examiner's rejections include legal deficiencies, Applicants are entitled to a pre-appeal brief review of the Final Office Action. Based on the foregoing arguments, Applicants respectfully request that the rejection of these claims be withdrawn and the claims allowed.

Respectfully submitted,

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Dated: January 31, 2008   By:

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